

**REMARKS**

Claims 1-16 are pending in this application. Claims 5, 6, 8, 9 and 13-16 are withdrawn from consideration. By this Amendment, the title, specification, abstract and claim 1 are amended.

**I. The Specification Satisfies Formal Requirements**

The title, specification and abstract are objected to for formal requirements. Accordingly, the title, specification and abstract are amended. With respect to related applications, the related application in EPC has been abandoned and the JP related application has not yet been examined.

Withdrawal of the objection to the title, specification and abstract is respectfully requested.

**II. Double Patenting Rejection**

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting over claim 1 of U.S. Patent No. 6,611,484. Claims 2-4, 7 and 11-12 are rejected for non-statutory double patenting over U.S. Patent No. 5,931,904. Per a telephone conference with Examiner Patel on November 23, the Examiner agreed that U.S. Patent No. 5,931,904 is an error and should be the same patent as for claim 1 (U.S. Patent No. 6,611,484).

Applicant respectfully submits the enclosed Terminal Disclaimer. Withdrawal of the rejection of claims 1-4, 7 and 11-12 is respectfully requested.

**III. Claims 1-4 and 7 Satisfy the Requirements of 35 U.S.C. §112, First Paragraph and Second Paragraph**

Claims 1-4 and 7 are rejected under 35 U.S.C. §112, first paragraph as containing subject matter not described in the specification. Claims 1-4 and 7 are rejected under 35 U.S.C. §112, second paragraph as indefinite.

Claim 1 is amended. Withdrawal of the rejection of the claims under 35 U.S.C. §112, first paragraph and second paragraph is respectfully requested.

**IV. The Claims Define Patentable Subject Matter**

Claims 10-12 are rejected under 35 U.S.C. §102(e) as anticipated by JPO 2000-312879 to Arioka et al. This rejection is respectfully traversed.

Arioka does not constitute prior art. Arioka's filing date in Japan is October 13, 2000 and claims priority to a filing date of October 14, 1999 (priority no. 11-292843). The Examiner cites to Figures 1 and 3 of Arioka in rejecting the claims. However, Figures 1 and 3 of Arioka are not disclosed in Arioka's priority document no. 11-292843. Additionally, claims 2 and 3, paragraphs 17, 20-22, 24, 28-30, 31-40, 44-50, 67, 70-83, 88, and 90 - in Arioka which relate to "virtual recording cell" are not disclosed in the priority document no. 11-292843.

Accordingly, the invention date of the subject matter concerning "virtual recording cell" is not October 14, 1999, but rather is the filing date of October 13, 2000.

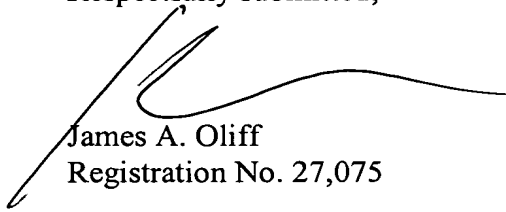
However, the present application claims priority from JP 2000-309332 filed October 10, 2000. Thus, Arioka does not constitute prior art. Withdrawal of the rejection of claims 10-12 under 35 U.S.C. §102(e) is respectfully requested.

**V. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:KMM/jfb

Attachments:

Petition for Extension of Time  
Terminal Disclaimer  
Amended Abstract

Date: November 23, 2004

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## ABSTRACT

An optical multi-level recording medium, having a recording layer on which a ~~having~~ recording marks mark is formed at multiple stages is disclosed. ~~An optical recording medium, which is constructed in a manner that a recording mark is formed on the recording layer by irradiating a laser beam so as to record information, the recording layer, plural virtual recording cells being continuously formed in a relative moving direction to the laser beam on the recording layer with plural virtual recording cells, each of which has an arbitrary unit length and a unit width perpendicular to the unit length in the relative moving direction, five stages or more irradiation times being set with respect to the virtual recording cell so that the irradiation time becomes long successively from the first to final stages, a power average value of laser beam in a specific irradiation time of the plural-stage irradiation times being set so as to become larger than a power average value of another irradiation time longer than the specific irradiation time, and recording marks to the virtual recording cell being formed in the virtual recording cell and giving five stages or more different optical reflectance to the virtual recording cell to the virtual recording cell when the laser beam is irradiated to the virtual recording cell.~~